

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

C.A. No. 04-30054-MAP

DEBORAH ST. PETER and )  
MATTHEW BOGACZ )  
Plaintiffs )  
v. )  
TOWN OF AGAWAM, ET AL )  
Defendants )

DEPOSITION OF: LOU REITER taken

before Jessica R. Stasio, Notary Public-Stenographer,  
pursuant to Rule 30 of the Massachusetts Rules of  
Civil Procedure, at the law offices of ROBINSON  
DONOVAN, 1500 Main Street, Springfield,  
Massachusetts on August 21, 2006.

Appearances: (see page 2)

Jessica R. Stasio  
Registered Professional Reporter

APPEARANCES

FOR THE PLAINTIFFS:  
COOLEY SHRAIR  
1380 Main Street  
Springfield, MA 01103  
413-781-0750

BY: DAWN D. McDONALD, ESQ.

FOR THE DEFENDANTS:  
ROBINSON DONOVAN, P.C.  
1500 Main Street  
Springfield, MA 01115  
413-732-2301

BY: JEFFREY L. MCCORMICK, ESQ.

IN ATTENDANCE: Matt Kelley

I N D E X

WITNESS DIRECT CROSS REDIRECT RECROSS  
LOU REITER 4

LOU REITER, Deponent, having first been  
duly sworn, deposes and states as follows:

DIRECT EXAMINATION BY MR. MCCORMICK:

Q. Mr. Reiter, again, we met already. My  
name's Jeff McCormick. And certainly from looking  
at your resume and your report, I can see you have  
been through this before, and I am not going to give  
you a long spiel about how to respond in  
depositions. Just briefly I'd ask that you respond  
verbally to my questions.

A. Yes.

Q. And if you'd let me finish my question, I  
think in our daily lives, I think we naturally think  
we know what someone's going to say, and we start to  
answer before they are done. So if you just wait  
until I am done, I'll be glad to let you say  
anything you'd like as well, okay?

A. I'll do that.

Q. Would you state your name, please?

A. Lou, L-O-U, Reiter. R-E-I-T-E-R.

Q. And you go by Lou?

A. I do.

Q. Okay. And where do you live, Mr. Reiter?

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1 mailing list.

2 A. If you just call the Public Agency

3 Training Council, they are the ones that printed it

4 and distributed it.

5 Q. Now, you make reference in your

6 preliminary report to the various materials that you

7 reviewed regarding this case. It's on paragraph 6

8 on page 3. Is that a copy you have in front of you?

9 A. Yes.

10 Q. Okay. And the second and third bullets

11 are Agawam Police Manual in effect as of March 24,

12 2002, and then Agawam Police Manual being updated

13 thereafter. Do you see those?

14 A. Yes.

15 Q. I take it that in the -- certainly in your

16 involvement in the profession and now as an

17 independent contractor or consultant, if you will,

18 you have certainly reviewed, I take it, many manuals

19 of this nature before, haven't you?

20 A. Yes.

21 Q. All right. In your opinion, based upon

22 your education and experience, how did those Agawam

23 manuals stand up to other manuals around the country

24 of police departments of approximately the same size

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1 or towns of approximately the same size?

2 A. Actually, the one that was in effect when

3 this incident occurred is one that many

4 Massachusetts agencies use. It's the MPI, which was

5 decent at the time. The last update of the MPI,

6 though, was 1985. They were still apparently

7 operating on the 1979 version which was an older

8 one. That's been taken over now by the

9 Massachusetts Chiefs of Police Association, and

10 they've put out another one. I think the original

11 came out, I want to say 2000, because I know I've

12 got it on my computer. It's in a disk format, and

13 it's acceptable. But there are still, in the use of

14 force area, there's still one provision where they

15 are not consistent with the model policies that

16 you'll find throughout the United States and

17 recommended by the U.S. Department of Justice. But

18 certainly -- and that's mainly on the reporting

19 aspect.

20 Q. And by that do you mean the, simply the

21 one that Agawam uses or the one that is available

22 throughout the state or the Commonwealth of

23 Massachusetts?

24 A. No, the one that's available through the

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1 state. In other words, they still only have a

2 requirement that -- they don't have a separate use

3 of force report. So they don't have a convenient

4 way of accumulating the data so that it could be

5 evaluated in a reasonable manner. The 2000 version

6 of the Mass. Chiefs model policy indicates that the

7 chief annually should evaluate all uses of force and

8 produce a report outlining his or her evaluation.

9 But if you simply, like Agawam, allow the officers

10 to include uses of force inserted in the arrest or

11 incident report, it's going to be a monumental task

12 at the end of the year to ever pull that out and to

13 be able to use it in any reasonable manner for

14 evaluation and critique, because different officers

15 use different terminology. They could use different

16 terminology on the levels of resistance, on the

17 levels of reaction by the department, on the

18 different tools and techniques that are used.

19 Q. So what you are saying is that as far as

20 you know now and back at the time of the incident in

21 this case, there was at least some form of reporting

22 in the Agawam Police Department, it's just that it

23 wasn't of the nature that you would have preferred?

24 A. Not only -- it's not just me. It's --

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1 Q. Well, I'm asking you.

2 A. It's the Department of Justice, the ICP

3 model policy and the general -- generally accepted

4 practices in law enforcement ever since really the

5 late '80s, early '90s, have had specifically

6 designed use of force, control of resistant persons

7 kinds of reports that will gather statistical data

8 separate and apart from the narrative arrest,

9 offense, or incident report. They don't have that,

10 and there's no indication that the Mass. Chiefs

11 Association even requires it today.

12 Q. Well, that was going to be my next

13 question, in a way. As far as you know even today,

14 does the Mass. Chiefs Association, I believe, or MPI

15 or any entity or institution within the law

16 enforcement business in the Commonwealth of

17 Massachusetts, do any of those have forms that it's

18 promulgated or issued with regard to such reporting?

19 A. I know different departments do, but none

20 of those statewide organizations have a specific

21 form or even require that kind of form.

22 Q. Okay. Thank you. I believe in a couple

23 of locations in your preliminary report, and

24 specifically on page 7 in paragraph 11, if you could

LOU REITER

Condensed

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1 turn there, please, you say "I am aware that there  
2 are distinctly divergent versions of the events of  
3 this incident involving use of force, restraint, and  
4 arrest of both plaintiffs. I am not making any  
5 credibility determinations, and I believe that it  
6 would not be appropriate for someone like myself to  
7 do so without firsthand knowledge of the incident or  
8 personal contact with the parties". Did I read that  
9 correctly?

10 A. Yes.

11 Q. All right. So what you are saying is that  
12 for the sake of the preparation of this preliminary  
13 report, you have taken the versions that have been  
14 given in their depositions by the two plaintiffs,  
15 Ms. St. Peter and Mr. Bogacz, as opposed to  
16 accepting in whole the versions of the police  
17 officers that were allegedly involved; is that  
18 right?

19 A. Well, that is not totally true.

20 Q. Well, what is not true about that?

21 A. Well, we have a disinterested witness who  
22 I've also identified, and then there is also a  
23 paragraph where I say that the officers' version is  
24 distinctly different. Let me -- paragraph 23. "The

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1 officers have a totally different version of the  
2 events and deny using the types of force described  
3 by the plaintiffs". So my position is if you accept  
4 the officers' version as they've testified to and as  
5 they've written, the force used would be reasonable  
6 and consistent with generally accepted police  
7 practice.

8 Q. Right. So what it comes down to in this  
9 case is that it's a question of credibility with  
10 regard to what excessive force or not was used to be  
11 determined by a jury or the finder of fact?

12 A. Yes and no. And I -- if I can just --

13 Q. Go ahead. Sure. Go ahead.

14 A. It is, it's a credibility. I mean you  
15 have got two versions for what occurred there, and  
16 that's the role for the court and the jury to make a  
17 determination on. All I can do here is be an --  
18 assist to say that this is how force is used, this  
19 would be reasonable, this is a consistent -- if you  
20 have this level of resistance, this is the kind of  
21 force that officers are trained to use, this would  
22 be not consistent with that. And I think there was  
23 recently an, in fact, a first circuit -- no, it was  
24 a district court decision up in Maine which is that

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1 is specifically what they said, you know, I couldn't  
2 say group A was right and group B wasn't, but that I  
3 could provide the court with expert assistance in  
4 describing use of force based on hypotheticals or  
5 based on circumstances of an encounter.

6 Q. The witness you were referring to was  
7 Mrs. or Ms. Delucchi, --

8 A. Yes.

9 Q. -- wasn't it? You read her entire  
10 transcript?

11 A. I did.

12 Q. All right. You'd agree with me, wouldn't  
13 you, that Ms. Delucchi said she didn't see the  
14 entire incident that occurred, did she?

15 A. That's true. She did not.

16 Q. I believe she, and I'm paraphrasing what  
17 she said, but I believe she said words to the effect  
18 that she heard a commotion or something going on  
19 outside, I think she attempted to look out a window,  
20 eventually went upstairs and looked out another  
21 window and saw some things going on?

22 A. Right. She didn't see the front end of  
23 it; correct.

24 Q. And I believe that the pages that you cite

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1 in her testimony in paragraph 18 on page 10 of your  
2 preliminary report are simply some portions of the  
3 statements that she made in response to questions at  
4 the depositions?

5 A. Yes.

6 Q. You haven't spoken to Mrs. Delucchi at  
7 all?

8 A. No.

9 Q. You make reference, I believe in paragraph  
10 16 and possibly some other places, about Mr. Bogacz  
11 and Ms. St. Peter having discussion in their  
12 testimony about at least Mr. Bogacz being struck in  
13 or about the head; is that right?

14 A. Yes.

15 Q. Okay. And were you provided with the  
16 photographs that purported to show the cuts or the  
17 wounds, if you will, that he received during the  
18 melee, if you will?

19 A. Yes.

20 Q. The manner in which you are understanding  
21 he received the cuts on or about his head come from  
22 the testimony that he gave in his deposition -- it's  
23 a crummy question. I'll start that again.

24 You say in your preliminary report that